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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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HEIMLICH LAW 5952 DIAL WAY SAN JOSE, CA 95129			ENGLAND, DAVID E	
			ART UNIT	PAPER NUMBER
			2143	

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/884,741

Applicant(s)

HOLZER, DAVID

Examiner

David E. England

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 December 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

1. Claims 1 – 30 are presented for examination.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

3. Claims 1, 2, 4, 6 – 8 and 17 are rejected under 35 U.S.C. 102(e) as being anticipated by Ward et al. U.S. Patent No. 6784924 (hereinafter Ward).
4. Referencing claim 1, as closely interpreted by the Examiner, Ward teaches a method comprising:

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5. receiving at a service aggregator information from a device first, (e.g. col. 2, line 59 – col. 3, line 14); and
6. transmitting information from the service aggregator to the device directing the device to communicate with a service provider, (e.g. col. 2, line 59 – col. 3, line 14).
7. Referencing claim 2, as closely interpreted by the Examiner, Ward teaches comprising the service aggregator communicating information about the device to the service provider, (e.g. col. 2, line 59 – col. 3, line 14).
8. Referencing claim 4, as closely interpreted by the Examiner, Ward teaches the service aggregator communicating user options to the device, (e.g. col. 2, line 59 – col. 3, line 14, “*preferences*”).
9. Referencing claim 6, as closely interpreted by the Examiner, Ward teaches the information from the device is input by a user, (e.g. col. 3, lines 14 – 39, “*take pictures*”).
10. Referencing claim 7, as closely interpreted by the Examiner, Ward teaches receiving from the service provider an aggregation of choices for the device, (e.g. col. 1, lines 51 – 67, “*selected destination*”).

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11. Referencing claim 8, as closely interpreted by the Examiner, Ward teaches the choices are displayed on the device and a user may select a specific choice, (e.g. col. 3, lines, 15 – 39, “...which are displayed on the LCD...”).

12. Claim 17 is rejected for similar reasons as stated above.

13. Claims 1, 13 – 17 and 19 – 28 are rejected under 35 U.S.C. 102(e) as being anticipated by Anderson et al. (6636259) (hereinafter Anderson).

14. Referencing claim 13, as closely interpreted by the Examiner, Anderson teaches a method of device relationship management, comprising:

15. determining a new connection event from a device, (e.g. col. 10, lines 38 – 53);

16. sending a new connection message to the device upon said determining said new connection event from said device, (e.g. col. 10, lines 54 – 64);

17. determining and optionally updating the device upon said sending said new connection message to the device, (e.g. col. 10, lines 30 – 37);

18. sending messages to the device upon said determining and optionally updating the device, (e.g. col. 10, lines 38 – 53);

19. receiving user input from the device upon said sending messages to the device, (e.g. col. 10, lines 15 – 29); and

20. configuring the device upon said receiving user input from the device, (e.g. col. 10, lines 38 – 53).

21. Referencing claim 14, as closely interpreted by the Examiner, Anderson teaches updating the device comprises updating the device's memory, (e.g. col. 10, lines 38 – 53).

22. Referencing claim 15, as closely interpreted by the Examiner, Anderson teaches determining a service provider, (e.g. col. 10, lines 30 – 37); and

23. transferring to the device communication information about the service provider, (e.g. col. 10, lines 38 – 53).

24. Referencing claim 16, as closely interpreted by the Examiner, Anderson teaches transferring to the device communication information about the service provider further comprises instructing the device to establish a connection with the service provider, (e.g. col. 10, lines 38 – 53).

25. Claims 1 and 17 are rejected for similar reasons stated in claim 13.

26. Claims 19 – 28 are rejected for similar reasons stated above.

Claim Rejections - 35 USC § 103

27. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

28. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ward (6784924) in view of Morris (6353848).

29. As per claim 3, Ward does not specifically teach the service aggregator communicating update information to the device. Morris teaches the service aggregator communicating update information to the device, (e.g. col. 14, lines 12 – 30). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Morris with Ward because it would be more convenient for a system to download the update information that could enable a user to use software that could give a device added features on said device in a network than having the device separately install the software from a portable disk, (i.e. CD ROM).

30. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ward (6784924) in view of Mighdoll et al. (6662218) (hereinafter Mighdoll).

31. As per claim 5, as closely interpreted by the Examiner, Ward does not specifically teach the service provider communicating update information to the device. Mighdoll teaches the service provider communicating update information to the device, (e.g. col. 16, lines 38 – 56). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Mighdoll with Ward because of similar reasons stated above.

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32. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson in view of Mighdoll et al. (6662218) (hereinafter Mighdoll).

33. As per claim 5, as closely interpreted by the Examiner, Anderson does not specifically teach the service provider communicating update information to the device. Mighdoll teaches the service provider communicating update information to the device, (e.g. col. 16, lines 38 – 56). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Mighdoll with Anderson because of similar reasons stated above.

34.

35. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ward (6784924) in view of Anderson (6636259).

36. As per claim 9, as closely interpreted by the Examiner, Ward does not specifically teach the choices are account choices. Anderson teaches the choices are account choices, (e.g. col. 10, lines 54 – 63). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Anderson with Ward because providing the camera with default ISP info and returning new ISP info, may be omitted.

37. Claims 10 – 12 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ward (6784924) in view of Anderson (6636259) in further view of Cook et al. (6636259) (hereinafter Cook).

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38. As per claim 10, as closely interpreted by the Examiner, Ward teaches the information received at the service aggregator is selected from the group consisting of device attribute information, account information, type of device information, application information, (e.g. col. 1, lines 51 – 67), but does not specifically teach branding information, device serial number information, and last time used information.

39. Anderson teaches branding information, device serial number information, (e.g. col. 7, lines 13 – 20).

40. Cook teaches last time used information, (e.g. col. 10, lines 30 – 50). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Anderson and Cook with Ward because providing device information to a central location would give the system information to bill the user for services rendered.

41. As per claim 11, as closely interpreted by the Examiner, Ward does not specifically teach the branding information is prespecified in the device. Anderson teaches the branding information is prespecified in the device, (e.g. col. 7, lines 13 – 20). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Anderson with Ward because it would be more efficient for a system to establish a connection with devices that are recognized within the company that develops the hardware and software purchased.

42. As per claim 12, as closely interpreted by the Examiner, Ward teaches the account information is input by a user, (e.g. col. 1, lines 51 – 67).

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43. Claims 18 are rejected for similar reasons as stated above.

44. Claims 29 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson (6636259) in view of Cook (6636259).

45. As per claim 29, as closely interpreted by the Examiner, Anderson does not specifically teach determining a sufficiency of a payment from a payor. Cook teaches determining a sufficiency of a payment from a payor, (e.g. col. 21, lines 11 – 29). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Cook with Anderson because of similar reasons stated above. Furthermore, it would be more beneficial for a system to keep track of services rendered by a service provider and to keep users that are delinquent on payments, out of the system until such payment is received for services rendered.

46. As per claim 30, as closely interpreted by the Examiner, Anderson teaches the payor is selected from the group consisting of a subscriber, a non-subscriber, a sponsor, and an advertiser, (e.g. col. 4, lines 10 – 24).

Response to Arguments

47. Applicant's arguments filed 02/05/2005 have been fully considered but they are not persuasive.

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48. In the Remarks, Applicant argues in substance that Ward does not teach receiving at a service aggregator information from a device first;

49. transmitting information from the service aggregator to the device directing the device to communicate with a service provider.

50. As to part 1, Applicant's claims are broad in interpretation. All the Applicant is claiming is a device attempting to connect to an ISP. This is not novel and AOL® has been providing services like this for over a decade.

51. One, the Applicant does not state what "the device" could be. Two, the Applicant does not state what a service aggregator could be. Therefore, it is left to a very broad interpretation.

52. Furthermore, Anderson also teaches the claim limitations of claims 1 and 17 as newly stated above.

53. In the Remarks, Applicant argues in substance that Ward does not teach the limitations of claims 2, 4 and 6 – 8.

54. As to part 2, Examiner would like to draw the Applicant's attention to the above reply to their remarks for the same rational can be applied here.

55. In the Remarks, Applicant argues in substance that Anderson does not teach the order of the claim language and therefore cannot be utilized.

56. As to part 3, Examiner would like to remind the Applicant that when reviewing a reference the applicants should remember that not only the specific teachings of a reference but also reasonable inferences which the artisan would have logically drawn therefrom may be

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properly evaluated in formulating a rejection. In re Preda, 401 F. 2d 825, 159 USPQ 342 (CCPA 1968) and In re Shepard, 319 F. 2d 194, 138 USPQ 148 (CCPA 1963). Skill in the art is presumed. In re Sovish, 769 F. 2d 738, 226 USPQ 771 (Fed. Cir. 1985). Furthermore, artisans must be presumed to know something about the art apart from what the references disclose. In re Jacoby, 309 F. 2d 513, 135 USPQ 317 (CCPA 1962). The conclusion of obviousness may be made from common knowledge and common sense of a person of ordinary skill in the art without any specific hint or suggestion in a particular reference. In re Bozek, 416 F.2d 1385, 163 USPQ 545 (CCPA 1969). Every reference relies to some extent on knowledge of persons skilled in the art to complement that which is disclosed therein. In re Bode, 550 F. 2d 656, 193 USPQ 12 (CCPA 1977).

57. Furthermore, Applicant states that Anderson teaches all the limitations in claims 13, 19, 23, 25 and 27, Pages 35 of the Applicant's Remarks. The Applicant states that the only difference is the order of the execution. If the Applicant were to view Figures 4A and 4B one would see that the core of the order in which the invention pertains to is taught by Anderson. Although, Anderson does teach other steps that maybe intertwined between what is claimed by the Applicant, there are no limitations that states there couldn't be any other steps in the invention. Furthermore, the response to the Remarks stated in part 1 could also apply to these Remarks in regards to what a service aggregator could be. Also, the limitations do not state where a new connection message to the device is coming from, it is not taught what the update to a device could be, i.e. the update could be that the device is now connected to "something" which it wasn't connected to before. Where the message is coming from in which a device receives it. Nor does the Applicant ever state in the independent claims what "the device" could

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be. Applicant needs to be more specific in their claim language so to distinguish from the prior art.

58. In the Remarks, Applicant argues in substance that Morris, Mighdoll and Cook do not cure the deficiencies of Ward and Anderson.

59. As to part 4, Examiner would like to draw the Applicant's attention to the above response to Remarks for the teachings are found and interpretations are found above and in the prior art as disclosed.

Conclusion

60. Applicant is advised to contact the Examiner to resolve any discrepancies on claim interpretations, ambiguities and possible claim amendments to overcome the prior art.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David E. England whose telephone number is 571-272-3912. The examiner can normally be reached on Mon-Thur, 7:00-5:00.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A. Wiley can be reached on 571-272-3923. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

David E. England
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